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Office of the Secretary

Date: NOV. 1, 2004

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APR 12 2005

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

Re: In the Matter of Vonage Holdings Corp. Petition for Declaratory Ruling Concerning an
Order of the Minnesota Public Utilities Commission
WC Docket No. 03-211

Dear Chairman Powell:

We urge you proceed cautiously in issuing a decision on the Vonage VOIP Petition, which requests that its Voice over Internet Protocol (VOIP) service be designated an "interstate service." While the Commission's intentions to create regulatory certainty may be well-intended, such a classification will likely have far-reaching unintended consequences for consumers and the communications industry as a whole. In light of the changing face of the communications industry, driven largely by technology convergence, such decisions are better deferred to Congress where the appropriate statutory revisions can be made.

Voice over the Internet technologies and other technologies have the potential to provide consumers with more choices among phone services, and the nation's Governors support the growth of this new technology. However, designating VOIP as an "interstate service" would ignore serious public interest questions, would create an uneven playing field among voice service providers and would eliminate the federal-state partnership established under the 1996 Telecommunications Act. This becomes particularly disconcerting in light of the predictions that the Internet, rather than the Publicly Switched Telephone Network (PSTN), will likely deliver the majority of phone services in the near future. The Governors recognize that an FCC decision designating VOIP services to be "interstate" in nature would set an industry-wide precedent for VOIP services that would:

- preempt state and local authority over E911 services, inhibiting states from funding and managing E911 networks and undermining state and local public safety programs;
- impede state governments' ability to manage state universal service programs, by limiting the states' authority to assess state universal service fees to VOIP; and
- require the FCC to take full responsibility for enforcing consumer protection standards, a function that the Commission has neither the resources nor the expertise to manage for millions of consumers.

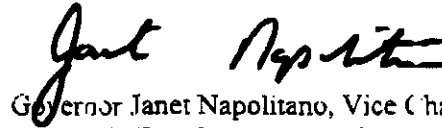
Chairman Michael K. Powell
November 1, 2004
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Thus, we urge the Commission use its decision in this case to defer conclusions about the regulatory treatment of VOIP and other IP-enabled services to Congress. Thank you for your consideration.

Sincerely,



Governor Mark Sanford, Chair
Economic Development & Commerce
Committee



Governor Janet Napolitano, Vice Chair
Economic Development and Commerce
Committee

cc: Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Commissioner Jonathan S. Adelstein